

Serial No. 10/586,926  
Reply to Office Action dated September 28, 2009

Docket No. 1006/0137PUS1

### **REMARKS/ARGUMENTS**

Favorable reconsideration and allowance of the present application is respectfully requested. Claims 1-6 and 18-20 are pending in the above application of which claims 1 and 18 are independent. By the above amendment, claims 18-20 have been added, and claim 7 has been cancelled without prejudice.

The Office Action dated September 28, 2009, has been received and carefully reviewed. In that Office Action, claims 1-17 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite, claims 1, 5, 6, 9, 11, 12 and 17 were rejected under 35 U.S.C. 102(b) as being anticipated by Seewald<sup>1</sup>, and claims 2-4 were rejected under 35 U.S.C. 103(a) as being unpatentable over Seewald in view of Cribari. In addition, claim 10 was rejected under 35 U.S.C. 103(a) as being unpatentable over Seewald in view of Gowan, claims 13 and 14 were rejected under 35 U.S.C. 103(a) as being unpatentable over Seewald in view of Yamamoto '935, and claim 15 was rejected under 35 U.S.C. 103(a) as being unpatentable over Seewald in view of Yamamoto '458. It is believed that all pending claims are allowable over the art of record, and reconsideration and allowance of claims 1-6 and 8-17 and examination and allowance of claims 18-20 are respectfully requested in view of the above amendments and the following remarks.

### **INFORMATION DISCLOSURE STATEMENT**

Applicant filed an IDS on March 20, 2009, with a form PTO SB/08 that included three U.S. references and one Chinese reference. The copy of that PTO SB/08 attached to the present Office Action has a line through each of the three U.S.

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<sup>1</sup> In a telephone call on November 3, 2009, the examiner advised that "Seewald" in the Office Action was a reference to DE 10132485.

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references. The Chinese reference is initialed. The Office Action indicates that the three U.S. references were not considered because they are "not pertinent to the art of heat exchangers." It is respectfully submitted that 37 C.F.R. 1.97 provides that an information disclosure statement shall be considered if certain requirements as to timing and form are satisfied. There is no provision in the patent regulations that certain references will not be considered if they are not deemed sufficiently relevant to the claimed invention. Moreover, the instructions at the bottom of the PTO SB/08 instruct the examiner to "initial if reference considered." Each reference was apparently considered sufficiently to allow the examiner to determine that it was not particularly relevant to the claimed invention. Because the references were considered, it is respectfully requested that the examiner initial and return a copy of the form PTO SB/08 listing the three DaSilva references to confirm that these references were considered.

If the examiner refuses to initial these references, it is respectfully requested that the examiner identify the legal authority that allows an examiner to cross out references on an IDS after the examiner has considered the references and explain why the requirements of 37 C.F.R. 1.97 do not apply in the present case.

#### SPECIFICATION

By the above amendment, minor revisions have been made to the specification to improve the form thereof. No new matter has been added.

#### DRAWINGS

The drawings were objected to for failing to illustrate a limitation found in claim 7.

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By the above amendment, claim 7 has been cancelled, thereby obviating this objection.

#### REJECTIONS UNDER 35 U.S.C. 112, SECOND PARAGRAPH

Claims 1-17 have been amended to address the antecedent basis issues identified by the examiner and to remove instances of "preferably" and "in particular." It is believed that all claims satisfy the requirements of 35 U.S.C. 112, second paragraph, and the withdrawal of the rejections of claims 1-17 under 35 U.S.C. 112, second paragraph, is respectfully requested.

#### REJECTIONS UNDER 35 U.S.C. 102(b)

Claim 1 was rejected under 35 U.S.C. 102(b) as being anticipated by DE 10132485 (hereinafter, "Seewald"). Claim 1, as amended, recites a heat exchanger for a motor vehicle air conditioning system that includes at least one collecting tank made of sheet metal. The collecting tank is divided in a longitudinal direction into at least two chambers, and the ends of pipes are introduced in a base of the collecting tank. The collecting tank exhibits a tunnel-shaped collecting tank part, an essentially flat collecting tank part, which forms the base, and covers which are removably mounted in each case on a front side. At least one of the covers is embodied in a flat manner, at least in the area of its outer edge, and is positioned in the collecting tank with a positive fit. Seewald shows a heat exchanger that is formed from a sheet of metal and that includes covers formed from portions of the metal sheet that are bent at an angle to block the end of a tunnel-shaped collecting part. As such, the covers are not removably mounted on each case as recited in amended claim 1. Claim 1 is submitted to be allowable over

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Seewald for at least this reason.

Claims 2-6 and 8-17 depend from claim 1 and are submitted to be allowable for at least the same reasons as claim 1.

Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seewald in view of Cribari. Claims 2-4 depend from claim 1. Cribari does not address the shortcomings of Seewald discussed above in connection with claim 1. Claims 2-4 are therefore submitted to be allowable for at least the same reasons as claim 1.

Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seewald in view of Chiba. Claims 7 and 8 depend from claim 1. Chiba does not address the shortcomings of Seewald discussed above in connection with claim 1. Claims 7 and 8 are therefore submitted to be allowable for at least the same reasons as claim 1.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Seewald in view of Gowan. Claim 10 depends from claim 1. Gowan does not address the shortcomings of Seewald discussed above in connection with claim 1. Claim 10 is therefore submitted to be allowable for at least the same reasons as claim 1.

Claims 13, 14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seewald in view of Yamamoto '935. Claims 13, 14 and 16 depend from claim 1. Yamamoto '935 does not address the shortcomings of Seewald discussed above in connection with claim 1. Claims 13, 14 and 16 are therefore submitted to be allowable for at least the same reasons as claim 1.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Seewald in view of Yamamoto '458. Claim 15 depends from claim 1. Yamamoto '458 does not

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address the shortcomings of Seewald discussed above in connection with claim 1. Claim 15 is therefore submitted to be allowable for at least the same reasons as claim 1.

#### NEW CLAIMS

New claims 18-20 are also submitted to be allowable over the art of record. Claim 18 recites a heat exchanger for a motor vehicle air conditioning system that includes at least one collecting tank comprising a metal sheet having a generally flat central portion and first and second side portions folded over the central portion to form first and second generally tubular chambers. The first tubular chamber has a centerline parallel to a centerline of the second tubular chamber, and the generally flat central portion includes a plurality of openings configured to receive ends of flat pipes. First and second covers are removably mounted in first open ends of the first and second chambers. The first and second covers each include a peripheral portion lying substantially in a plane, and the first and second covers are mounted in the first open ends of the first and second chambers such that the peripheral portion plane is substantially perpendicular to the first centerline. Seewald does not show covers removably mounted in first and second ends of tubular chambers. Instead, Seewald folds a portion of the sheet metal used to form the tubular chambers over the ends of the tubular chambers to close them. Claim 18 is submitted to be allowable over Seewald and the other art of record for at least this reason. Claims 19 and 20 depend from claim 18 and are submitted to be allowable for at least the same reasons as claim 18.

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### **CONCLUSION**

Each issue raised in the Office Action dated September 28, 2009, has been addressed, and it is believed that claims 1-6 and 8-20 are in condition for allowance. Wherefore, reconsideration and allowance of these claims is earnestly solicited. If the examiner believes that any additional changes would place the application in better condition for allowance, the examiner is invited to contact the undersigned attorney at the telephone number listed below.

#### *Deposit Account Authorization*

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this, concurrent and future replies, including extension of time fees, to Deposit Account 50-3828 and please credit any excess fees to such deposit account.

Respectfully submitted,



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**Date: December 21, 2009**